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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,263	10/22/2003	D. Mark Tucker	2003-12 US	5444

7590
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08/05/2008

EXAMINER

BATTULA, PRADEEP CHOUDARY

ART UNIT

PAPER NUMBER

3725

MAIL DATE

DELIVERY MODE

08/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/691,263

Applicant(s)

TUCKER, D. MARK

Examiner

PRADEEP C. BATTULA

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is in response to the reply filed on March 13, 2008

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 25, and 27 – 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKillip in view of Kelly.

In regards to Claim 25, McKillip discloses a business form, comprising: a sheet of printable material 12 (Column 4, Lines 6 – 10; Figures 1 & 3, Item 12) having a document portion carrying documentation 24 (Column 5, Lines 41 – 44; Figure 1, Item 24), and a labeling portion where labels 22 exist (Column 5, Lines 41 – 44; Figure 1, Item 22) with the document portion being separable from the label portion (Column 5, Lines 20 – 24); a layer of adhesive material 18 positioned over the labeling portion of said sheet (Column 5, Lines 11 – 13; Figure 1, Item 18); a release layer 14 positioned over said layer of adhesive material and coextensive therewith (Column 5, Lines 11 – 13; Figure 1, Items 14 and 18 can be seen co-extensive); a label area 22 formed in said sheet in said labeling portion, said label area defining a label separable from said sheet and said release layer while retaining said adhesive material on said label (Figure 1, Items 14, 18, 22 – the figure shows the labels being peeled with the release layer staying and the adhesive going).

McKillip does not disclose a pouch area formed in said release layer, said pouch area overlying said label area and extending outwardly of the perimeter of said label area but ending short of the perimeter of said labeling portion so as to form a frame area in said release layer between the perimeter of said pouch area and the perimeter of said labeling portion; said release liner in said frame area being separable from said sheet and from the remainder of said release liner to expose said adhesive in said frame area.

McKillip does disclose an extra substrate and adhesive layer. One having ordinary skill in the art would take Official Notice that labels can be provided in one of two ways; one way by just having one ply of label substrate; and a second way by providing two plies of label substrates. Removal of one label ply of McKillip and only providing one label ply is within the technical grasp of one having ordinary skill in the art. Furthermore, it would have been obvious to try, by a person having ordinary skill in the art, to remove one substrate and one label layer as there are only a finite amount of label portions. One can only create dual sided labels as done in the document or, in a more simple invention, provide one substrate and adhesive in the label portion in order to provide lower manufacturing costs and save on material used or to merely provide a more simple invention.

Kelly discloses an adhesive label 30 for a carton 20 (Column 7, Lines 7 - 10) having a first die cut 60 only through said sheet and adhesive layer (Column 8, Lines 12 - 16; Figure 7, Items 30, 60) which defines a label through only said sheet and adhesive (Column 8, Lines 14 - 15) and a second die cut 58 through only said release liner

outwardly the first die cut and defining in said release liner a frame around a window area (Column 8, Lines 45 - 52; Figure 7, Items 58, 60) having adhesive 52 in the perimeter (Column 8, Lines 32 - 34; Figure 6 shows adhesive being exposed in perimeter) and forming a pouch (Figure 7, Item 54; Figure 3; back side of liner forms a pouch when perimeter of adhesive is put on the box). Furthermore the release liner is obviously separable from the sheet and adhesive section considering it is a release liner. Also, considering the die cut through the liner removing the sheet of liner would leave the portion of liner with the adhesive as seen in Figure 6. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the cuts of Kelly in McKillip's label substrate and liner in order to create a business form with multiple removable labels with a minimal amount of layers (Figures 6 & 7; Kelly).

In regards to Claim 27, McKillip modified by Kelly further discloses the upper side of said release liner inside said pouch area, together with the adhesive material exposed upon removal of said release layer in said frame area, forms a pouch for receiving documentation when said labeling portion is adhered to a container (Figure 6 shows the pouch portion behind the liner and shown adhered to an item in Figure 3; Figure 2; Kelly - nearly identical to Figure 4A filed March 23, 2007).

In regards to Claim 28, McKillip modified by Kelly further discloses said document portion is separable from said labeling portion along a line of weakness 20 (Column 5, Lines 24 - 26; Figure 1, Item 20 - Horizontal; Examiner considers it to be a line of weakness since the substrate is weakened for separation; McKillip).

In regards to Claim 29, McKillip modified by Kelly further discloses said label is formed by a die cut 60 through only said sheet and adhesive material layer (Column 8, Lines 12 – 16; Figures 4 & 7, Item 60; Kelly), and said frame is formed by a die cut 58 only through said release liner (Column 8, Lines 45 – 52; Figure 6, Item 54; Figure 7, Item 58; Kelly).

2. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over McKillip in view of Kelly and Gartner et al. (Gartner; U.S. 5,284,363).

In regards to Claim 26, McKillip modified by Kelly further discloses said release liner is capable substantially transparent considering it is glassine just as disclosed by applicant (Column 5, Lines 17 – 19; McKillip) wherein the liner is printable since it is disclosed it is a substrate (Column 5, Lines 11 – 20; substrates are inherently printable; once again specification states glassine is used and therefore can be printed on).

McKillip modified by Kelly does not disclose the liner has indicia printed in mirror image on its upper side so as to render said indicia legible upon removal of said label.

Gartner discloses of a multiplayer label having reverse printed indicia 18 or 52 on a transparent layer so that it can be read from the other surface of the transparent layer (Column 6, Lines 7 – 20; Figure 3, Item 18; Figure 7, item 52). Therefore it would have been obvious to a person having ordinary skill at the time the invention was made to provide reverse printing on the pouch surface of Kelly's liner in order to provide instruction on the use of the labels of Kelly (Column 3, Lines 64 – 67 → Column 4, Line 1).

Response to Arguments

Applicant's arguments with respect to art have been considered but are moot in view of the new ground(s) of rejection.

With respect to the remark that the labeling portion cannot be easily manipulate the form to be inserted between the liner and carton is a good point, however, the combination is only required to be capable of such. Also, one can place the label so that all four sides of the adhesive are on one face of the carton.

With respect to Kelly's liner being removable outside line 58, Figure 6 shows that the cut at 58 allows for removal of the liner. One can merely grasp the liner of McKillip and remove it by way of the die cut creating the edge at 58.

With respect to the traversal of Claim 26 rejection, Applicant is correct as a window label is done in a completely different environment.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PRADEEP C. BATTULA whose telephone number is (571)272-2142. The examiner can normally be reached on Mon. - Thurs. & alternating Fri. 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. C. B./
Examiner, Art Unit 3725
July 25, 2008

/Derris H Banks/
Supervisory Patent Examiner, Art Unit 3725